

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Leased Commercial Access)	MB Docket No. 07-42
)	
Development of Competition and)	
Diversity in Video Programming)	
Distribution and Carriage)	
)	
)	

To: The Commission

COMMENTS OF Duane J. Polich and Leased Access Producers Association

These comments are submitted on behalf of Duane J. Polich, in his role as Vice President of the Leased Access Producers Association ("LAPA").

LAPA has been formed for the purpose of acting as a national trade association to promote the interests of video producers who use leased access cable TV for the distribution of their programming. Voting membership is open to all video producers who use leased access and associate membership is available to equipment suppliers, attorneys, government officials, cable companies and other persons/entities who do business with or have an interest in leased access video production. Our aim is to promote the use of leased access cable TV, encourage and work with the FCC to develop specific rules and regulations concerning the obligations of cable TV companies have in carrying out the mandate of Congress to provide leased access programming to promote choice, diversity and competition

which is beneficial to the public interest. LAPA also works with the cable companies to educate the cable companies about the problems, concerns and benefit of leased access producers.

Collectively, our members are concerned about a number of issues including accessibility, channel/tier placement, coverage areas by targeted zone, insurance requirements, rates, contracts, methods of providing programming to the cable companies, cost of technical support, competing with local origination channels, PEG channels, being forced to accept unreasonable terms and lack of specific rules and remedies that they can operate under, especially when cable companies throw roadblocks in the way.

First and foremost leased access producers must be able to sustain a financially feasible business. Cable companies control the distribution of their programming and advertising/revenue stream. Leased access producers are at the mercy of the cable companies in making sure the programming is distributed/aired as schedule, terms of the contracts and whether the cable company will impose new requirements or terms, change channel placement, etc. The more roadblocks, obstructions and hoops to jump through that a cable company imposes, makes it more difficult to operate as a business. But leaving certain issues up in the air, to be decided through legal action, also places an unreasonable burden on leased access

producers as many do not have the deep pockets to litigate or can wait until the Commission takes action on an issue.

The FCC should write clear and concise rules and regulations that the cable companies must follow in providing leased access and the penalties which may occur for infraction of these rules. The FCC should minimize litigation and provide for a method of arbitration if needed.

There are enough burdens that leased access users must bear. One is the issue of insurance. There is no insurance company underwriting a policy tailored towards the needs of the leased access producers. One must get an expensive videographers or broadcasting e&o/liability policy and educate the insurance company about leased access. It seems that this is a requirement that the cable company uses more to discourage potential leased access users, then an actual need of the cable company. Has there been an instant where the cable company was harmed by a leased access user and needed to be compensated by the insurance? This especially places a burden on the small user, who only wants to use a small amount of time. The cost of insurance for the small user is likely the same as one who leases on a full time basis.

Leased access users should have access to the basic tier unless otherwise requested. The public should not have to hunt or pay more just to receive a leased access station. The cable companies should minimize any channel change for leased access

and give adequate notice (60 days) if a channel change is required for technical or other good reason. A leased access user needs to promote its programming and operate in a consistent manner, so as to be able to develop an audience.

A leased access user should be able to reach targeted markets, especially in metropolitan areas where the cable company may own several markets/systems. Where the cable company offers targeted zone ad insertion or city government channels to a specific community within that metro area, then the cable company should offer leased access by zones or cities. The cable company should not require the leased access user to have to use the entire market in these situations.

The leased access user should be able to enter into a standard contract with the cable companies in the area they serve. They should not have to “cow” to the whims and desires of cable companies in setting use, rates, conditions and other requirements that cable company may impose that may be outside the realm of the rules. LAPA encourages the FCC to adopt a standard contract form that the cable company must use with leased access users. The Commission should also develop a standard leased access information request form, which when submitted the info requested should be provided within the allotted time frame. Cable companies in the past have not provided info as requested, claiming the request wasn’t properly worded.

The leased access user should be able to make use of any technically feasible method to deliver its programming to the cable company headend/program playback location. This of course would be at the leased access users' expense or at extra charge if the cable company provided equipment other than a standard VCR or DVD players. Leased access users should be able to provide its programming live (via microwave or fiber optic cable) or on a delayed basis using video automation equipment, that can be remotely fed by the internet/microwave/wireless means. The leased access user should also be allowed to handle the scheduling of its' own programming if so desired. In other words, the cable company should not unduly restrict how the leased access programmer provides its programming to the cable company.

The leased access user should be able to take advantage of new technology, such as the inactive programming guides and video on demand channels. The leased access user should also have access to these or other new technology that would affect the distribution or promotion of its programming.

The leased access user should also not be subjected to "unfair" competition from the cable companies which operate local origination channels or video on demand services, "such as video classifieds". The cable company should not unduly restrict programming which may be in competition with them or demand exclusivity to any programming.

The Leased Access Producers Association encourages the Commission to consider all of these matters and adopt rules that give leased access users, a fair chance to succeed. Leased Access was touted in the past by the likes of Matt York, publisher of Videomaker magazine as a vehicle for videographers, to sustain a business providing TV programming of value to the public. Many users or potential users of leased access have become discouraged due to the roadblocks, obstructions and red tape of the cable companies, who for some reason or another, do not want to be bothered with leased access. The Commission should develop a primer for cable companies to educate them on leased access and their obligations and also for the potential or current leased access user as well. Leased Access Producers Association believes in the potential of leased access and encourages an environment where it can thrive.

Respectfully submitted,

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